UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DAVID WILSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.: 4:06-CV-01292MLM
	)	
CITY OF HAZELWOOD, MISSOURI	)	
OFFICER TODD GREEVES,	)	
	)	
Defendants.	)	

DEFENDANT'S MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT OR FOR NEW TRIAL

Comes now defendant, Todd Greeves, and pursuant to FRCP 59, moves the court enter judgment notwithstanding the verdict in his favor, or alternatively, grant defendant a new trial, and as grounds therefore, states as follows:

1. The verdict in favor of plaintiff was against the greater weight of the evidence.

2. The verdict in favor of plaintiff was contrary to law in that defendant, a police officer and licensed public safety officer, had both the legal right and duty to enforce the traffic regulations of the State of Missouri and to effect the lawful arrest of persons, including the plaintiff, who disobeyed defendant's lawful orders in the enforcement of traffic regulations.

3. The trial court erred in bifurcating the trial of the case into different phases for the determination of defendant's liability to plaintiff for actual damages and for additional and further punitive damages against defendant in the punitive phase of the trial. This bifurcation without additional instruction as to the enhanced standard of proof required

for the imposition of punitive damages confused the jury and allowed and permitted the jury to indulge in and engage in speculation and conjecture as to the proper standard of proof required for the imposition of punitive damages in this case.

4. The trial court erred in failing to give defendant's proferred verdict directing jury instruction on plaintiff's claim for civil rights violation in that the verdict directing instruction that was submitted to the jury by the court was vague, confusing, indefinite and failed to posit for the jury the ultimate fact they were required to find from the evidence in order to find in favor of plaintiff.

5. The trial court erred in admitting evidence over defendant's objection in the punitive damages phase of the trial that the defendant had been the subject of other, unrelated citizen complaints and that the defendant had been referred to counseling by his department subsequent to the incident involving the plaintiff, as such evidence was not relevant to any claim of the plaintiff against this defendant, the claims and allegations referred to in the evidence against defendant were never proven to be true, the accusers were not subject to cross examination as to the complaints, the incidents referred to were not of a similar character to the incident involving the plaintiff, and the introduction of this evidence only served to inflame and prejudice the jury against the defendant and in favor of the plaintiff.

6. The trial court erred in sustaining plaintiff's objection to the opinion testimony of Hazelwood Police Lieutenant McKenna regarding his opinion concerning the propriety and legal validity of plaintiff's arrest by defendant. This evidence was relevant to the question of the legal basis for and the justification and propriety of the arrest of plaintiff by defendant, and the defendant's inability to offer this testimony was prejudicial to the

defendant.

7. The trial court erred in failing to enter judgment as a matter of law in favor of defendant at the close of all the evidence and at the close of plaintiff's case under FRCP 50 as defendant is entitled to qualified immunity from liability to plaintiff under the law and the facts of this case because the totality of the circumstances revealed that the defendant did not violate a clearly established Constitutional right of plaintiff of which a reasonable police officer in the position of the defendant would have been aware.

WHEREFORE, defendant Todd Greeves moves the Court enter judgment notwithstanding the verdict in his favor, or grant him a new trial, and for such other and further relief as the Court deems proper.

/s/Peter J. Dunne
Peter J. Dunne #31482
Federal Registration No. 3025
Peter M. Rohrich, III #49197
Federal Registration No. 499121
RABBITT, PITZER & SNODGRASS, P.C.
Attorneys for Defendants
100 South Fourth Street, Suite 400
St. Louis, Missouri 63102-1821
(314) 421-5545
(314) 421-3144 (Fax)
dunne@rabbittlaw.com
rohrich@rabbittlaw.com

I hereby certify that a copy of the foregoing was filed with the Court's electronic filing system this 27th day of February, 2008 to the following: **Stephen M. Ryals**, Attorney for Plaintiff, 3120 Locust St., St. Louis, Missouri 63103 and **W. Bevis Schock**, Co-Counsel for Plaintiff, 7777 Bonhomme Avenue, Suite 2300, St. Louis, Missouri 63105.

/s/Peter J. Dunne